

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TEXTRON FINANCIAL CORPORATION,

Plaintiff,

v.

Civil Action No. 1:10CV39  
(STAMP)

NEW HORIZON HOME SALES, INC.,  
a West Virginia corporation,  
GILMER HOUSING PARTNERS, LLC,  
a West Virginia limited liability company,  
and SUMMIT COMMUNITY BANK,  
a West Virginia corporation,

Defendants,

and

SUMMIT COMMUNITY BANK,  
a West Virginia corporation,

Third-Party Plaintiff,

v.

JACK D. JONES and  
OFFICE OF THE CLERK OF THE COUNTY COMMISSION  
OF GILMER COUNTY, WEST VIRGINIA,

Third-Party Defendants.

**MEMORANDUM OPINION AND ORDER**  
**REGARDING COMPUTATION OF PRE-JUDGMENT INTEREST**

I. Background

On March 15, 2011, this Court entered a memorandum opinion and order granting as framed plaintiff Textron Financial Corporation's ("TFC") motion for summary judgment. This Court entered a judgment for the payment of money, but deferred entering judgment on the issue of pre-judgment interest so as to benefit from the parties' recommendations concerning the proper computation of pre-judgment

interest. This Court directed the parties to meet and confer to attempt to reach agreement on the proper computation of pre-judgment interest in this matter. On March 29, 2011, the parties filed a report with this Court setting forth their recommendation regarding how pre-judgment interest should be calculated.

## II. Discussion

In their report to this Court, the parties reached an agreement on how to calculate the amount of pre-judgment interest. The parties agree that pre-judgment interest accrued on the default amount of \$270,166.77 at the contractual default interest rate of 18% per annum from December 17, 2009, the date TFC sent New Horizon a letter of default until the complaint was filed on March 10, 2010. For this period, the pre-judgment interest is calculated by multiplying the principal amount of judgment by the duration of the default period by the interest rate, or \$270,166.77 times 0.18 times 83/365, which equals \$11,058.37.

The West Virginia Code provides the interest rate for pre-judgment interest from the time of the filing of the complaint. W. Va. Code Ann. § 56-6-31. The rate is equal to "three percentage points above the Fifth Federal Reserve District secondary discount rate in effect on the second day of January of the year in which the judgment or decree is entered: Provided, That the rate of pre-judgment and post-judgment interest shall not exceed eleven percent per annum or be less than seven percent per annum." Id. Using this formula, the parties calculated the interest rate at seven

percent per annum. For this period, pre-judgment interest is equal to the principal amount of the judgment times the interest rate times the time, or \$270,166.77 times 0.07 times 371/365, which equals \$19,222.62.

Therefore, the total pre-judgment interest is \$30,280.99.

### III. Conclusion

For the above stated reasons, this Court awards pre-judgment interest to the plaintiff in the amount of \$30,280.99.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to counsel of record herein.

DATED: March 30, 2011

/s/ Frederick P. Stamp, Jr.  
FREDERICK P. STAMP, JR.  
UNITED STATES DISTRICT JUDGE